



**Mecklenburg County
Department of Internal Audit**

Department of Human Resources
Applicant Background Check
Audit Report 1968

December 10, 2019

Internal Audit's Mission

To support key stakeholders in cultivating an environment of accountability, transparency, and good governance.

Internal Audit Contacts

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Acknowledgements

**Obtaining Copies of
Internal Audit Reports**

This report can be found in electronic format at
<https://www.mecknc.gov/audit/reports/pages/default.aspx>



MECKLENBURG COUNTY
Department of Internal Audit

To: Paula Herman, Director
Department of Human Resources

From: Joanne Prakapas, Director
Department of Internal Audit

Date: December 10, 2019

Subject: Department of Human Resources Applicant Background Check Audit Report 1968

The Department of Internal Audit has completed its audit of the Department of Human Resources applicant background check process to determine whether internal controls effectively manage key business risks inherent to this activity. Internal Audit interviewed key personnel; reviewed and evaluated policies, procedures, and other documents; observed operations; and tested various background check activities from July 1, 2015 through September 30, 2018.

This audit was conducted in conformance with The Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

OVERALL EVALUATION

Overall, key risks inherent to the background check process were managed to an acceptable level; however, opportunities exist to improve the design and operation of some control activities.

RISK OBSERVATION SUMMARY

The table below summarizes the risk observations identified during the audit, grouped by the associated risk factor, and defined in Appendix A. The criticality or significance of each risk factor, as well as Internal Audit’s assessment of the design and operation of key controls to effectively mitigate the risks, are indicated by the color codes described in Appendix B.

RISK OBSERVATION SUMMARY			
Risk Factors and Observations	Criticality	Design	Operation
1. Policies and Procedures Risk	●	●	●
1.1 Formal Documentation			
2. Compliance Risk	●	●	●
2.1 Criminal Individualized Assessment Forms 2.2 Background Check Reviews 2.3 Adverse Action Letters			
3. Human Resource Risk	●	●	●
3.1 Staff Training			
4. Integrity Risk	●	●	●
4.1 Background Check Monitoring			
5. Documentation Risk	●	●	●
5.1 Document Retention			
6. Segregation of Duties Risk	●	●	●
No risk observations noted			

The risk observations and management’s risk mitigation strategies defined in Appendix C are discussed in detail in the attached document. Internal Audit will conduct a follow-up review to verify management’s action plans have been implemented and are working as expected.

We appreciate the cooperation you and your staff provided during this audit. Please feel free to contact me at 980-314-2889 if you have any questions or concerns.

c: County Manager
Assistant County Managers
County Attorney
Deputy County Attorney
Board of County Commissioners
Audit Review Committee

BACKGROUND

The mission of the Mecklenburg County Department of Human Resources (the Department) is to provide services that enable recruitment and retention of a qualified and diverse workforce. As part of the hiring process, all potential new employees must submit to a background check to validate an applicant's identity and credentials, and ensure there is no disqualifying information prior to hiring, e.g., criminal activity.

The United States Equal Employment Opportunity Commission (EEOC) and the Federal Trade Commission (FTC) established laws and regulations surrounding the hiring activity for organizations, such as:

- Obtaining the applicant's written permission to perform a background check
- Prior to taking an adverse employment action, providing the applicant information citing the consumer report relied upon to make the adverse action and providing a copy of the applicant's rights under the Fair Credit Reporting Act (FCRA)
- After an adverse employment action, notifying the applicant orally, in writing, or electronically in accordance with the FCRA that he or she was rejected because of information in the report

In addition, all County employment offers are contingent upon an applicant's eligibility to work in the United States¹, and other factors such as:

- Drug tests
- Reference checks
- Verification of employment, education, and other required credentials, e.g., licenses or certifications

Background Check Process

Background check activities are outsourced to a third-party vendor. A human resources (HR) specialist initiates an applicant's background check by sending him or her an email link that provides access to the vendor's system. The applicant uses the link to enter his or her personal information into the system and to grant permission for the vendor to conduct the background check. Once completed, the vendor sends the Department an email notification and staff can access the vendor's system for the background check report.

If an applicant's background check shows no convictions, two HR specialists must review and initial the report per department policy, and the applicant will be notified of the results.

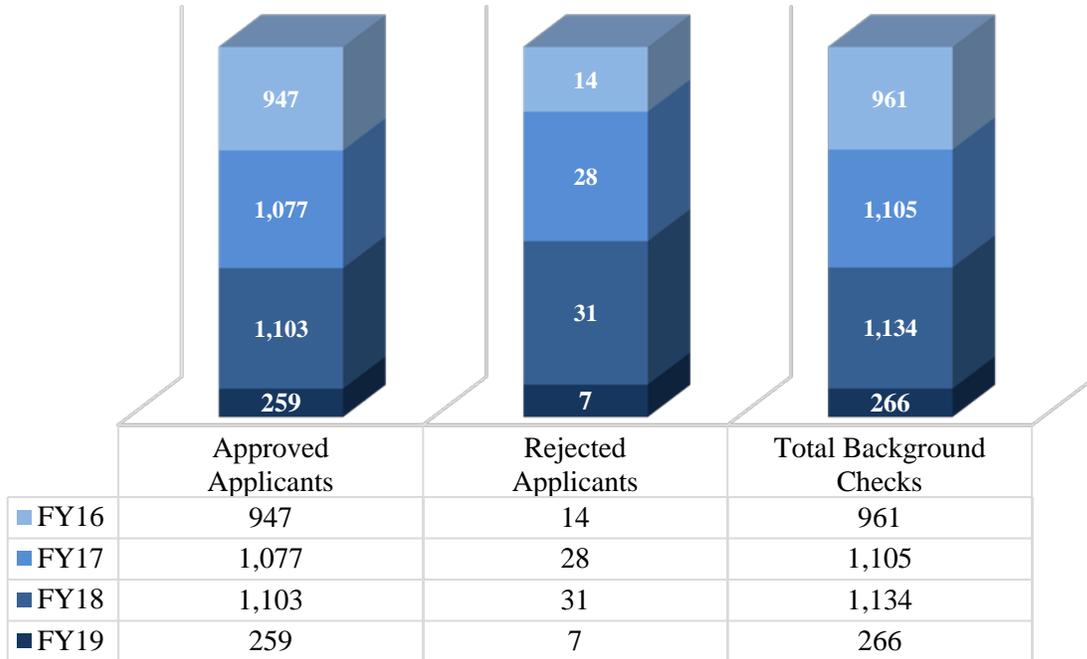
If an applicant's background check reports any activity, e.g., a felony that could result in an adverse action such as reversing a job offer, an HR consultant discusses the conviction details with the applicant. The consultant completes a Criminal Conviction Individualized Assessment form with the conviction details and documents the applicant's explanation for the conviction. Based on the background check report details and discussion with the applicant, the consultant provides a recommendation to the hiring director on whether to proceed with the employment offer.

¹ As required by the United States Citizenship and Immigration Services

In addition, the HR consultant in accordance with the FCRA sends a Pre-Adverse Letter to the applicant informing them of the background check results. The letter must include a copy of the background check report, its source, and a summary of the applicant’s rights. An Adverse Action Letter is sent to the applicant if the hiring director decides not to hire based on information from the background check report.

The table below shows the number of applicant background checks and outcomes for July 1, 2015 through September 30, 2018.²

Background Check Activity



Source: Human Resources provided data, unaudited

² Fiscal Year 2019 data is for the period July 1, 2018 through September 30, 2018 only.

COUNTY MANAGER’S OVERALL RESPONSE

The County Manager concurs with all risk mitigation strategies and timeframes for implementation.

RISK OBSERVATIONS AND MITIGATION STRATEGIES

Risk Factor	Criticality	Design	Operation
1. Policies and Procedures Risk			

Risk Observation

1.1 Formal Documentation—While the Department had some documented procedures for the background check process, they did not always reflect current and/or best practices. Yet, policies and procedures are important control activities to help management ensure its directives are carried out while mitigating risks that may prevent the organization from achieving its objectives.

Recommendation

1.1 Internal Audit recommends management update its background check procedures and train staff accordingly. Procedures should include, at a minimum:

- Frequency of policy and procedure reviews and updates
- Staff training requirements
- Segregation of duties
- Document retention requirements
- Applicable federal and State regulations

Management’s Response

1.1 **Risk Mitigation Strategy:** Reduce **Implementation Date:** May 2020

Action Plan: The Department will update procedures and train staff as necessary. In addition, the Department will define who handles various parts of the background check process to ensure segregation of duties. After implementation of the new Applicant Tracking System (ATS) and background check vendor, the ATS will become the system of record for retention purposes.

Risk Factor	Criticality	Design	Operation
2. Compliance Risk			

Risk Observations

2.1 Criminal Individualized Assessment Form—The Department did not have a Criminal Individualized Assessment form for 34 of 63 or 54% of forms sampled. Yet, department policy requires the form as

evidence that criminal conviction details and the applicant's explanation were taken into consideration prior to making a hiring decision recommendation.

- 2.2 Background Check Reviews—The Department did not document their background check report review as required by department policy. Nine of 60 or 15% of new hire background check reports sampled were not initialed to indicate review, including one report with a criminal conviction. Without documenting staff's review, management cannot ensure a review of the background check was completed to prevent hiring an unqualified individual or one who may pose a risk to the organization.
- 2.3 Adverse Action Letters—Six of 63 or 10% of Pre-Adverse Letters and 10 of 43 or 23% of Adverse Action Letters sampled were not sent to applicants in accordance with the FCRA requirements. Failure to comply with this Act could result in civil and statutory penalties.

Recommendations

- 2.1 Internal Audit recommends management ensure staff complete the Criminal Individualized Assessment form as necessary and maintain the documentation in accordance with department policy.
- 2.2 Internal Audit recommends management re-emphasize to staff the importance of documenting their review of background check reports. Management should routinely monitor for compliance to policy.
- 2.3 Internal Audit recommends management develop a process to track all Pre-Adverse and Adverse Action Letter mailings. Management should routinely monitor for compliance to policy.

Management's Responses

- 2.1 **Risk Mitigation Strategy:** Reduce **Implementation Date:** October 1, 2019

Action Plan: The Department will add the Criminal Individualized Assessment form to the onboarding checklist to ensure that this process is being done up front.

- 2.2 **Risk Mitigation Strategy:** Reduce **Implementation Date:** October 1, 2019

Action Plan: The Department will hold a meeting to discuss the importance of compliance and then document the discussion via email to the staff. This will be reinforced during the quarterly document spot checks conducted by the Onboarding Manager.

- 2.3 **Risk Mitigation Strategy:** Reduce **Implementation Date:** October 1, 2019

Action Plan: The Department will add a column(s) to the Conviction Log to document the date that the Pre-Adverse Letter and the Adverse Action Letter has been sent. Additionally, this will be added to the onboarding checklist to ensure the letters have been sent.

Risk Factor	Criticality	Design	Operation
3. Human Resource Risk	●	●	●

Risk Observation

3.1 Staff Training—Staff received initial training on the background check process, but they did not receive ongoing training to stay abreast of changes to the federal laws on discrimination and the FCRA that could impact the background check process. Yet, non-compliance may subject the organization to penalties, lawsuits, and negative public perception.

Recommendation

3.1 Internal Audit recommends management establish formal training for staff conducting background checks; evidence of training content and participants should be maintained.

Management’s Response

3.1 **Risk Mitigation Strategy:** Reduce **Implementation Date:** May 2020

Action Plan: On an annual basis, the Department will arrange for background check training with the background check vendor and HR attorney for updates. The Onboarding Manager will maintain evidence of training, content, and participants.

Risk Factor	Criticality	Design	Operation
4. Integrity Risk	●	●	●

Risk Observation

4.1 Background Check Monitoring—Management did not monitor background check activity to ensure staff refrained from conducting inappropriate background checks, e.g., on family members or co-workers. As a result, the County could be in violation of the FCRA and subject to lawsuits or civil and statutory penalties.

Recommendation

4.1 Internal Audit recommends management develop a process to periodically reconcile third-party vendor reports against department information. In addition, management should document their review and any actions taken.

Management’s Response

4.1 **Risk Mitigation Strategy:** Reduce

Implementation Date: May 2020

Action Plan: On a quarterly basis, a report for all candidates processed during the quarter will be requested from the background check vendor. This report will be compared to candidates hired and not hired (adverse decision). This process will allow us to identify any background checks ran on non-candidates for Mecklenburg County and handle the situation in accordance to HR/Mecklenburg County policy. This will be done by the Onboarding Manager.

Risk Factor	Criticality	Design	Operation
5. Documentation Risk	●	●	●

Risk Observation

5.1 Document Retention—The Department did not appropriately retain all supporting documentation for its background check activities to evidence compliance with County policy and federal laws, i.e., the EEOC, FTC, and FCRA. Exceptions noted during compliance testing for required documents are summarized in the tables below.

Table 1: Applicant Checks with No Convictions—Hired	
Document	Sample Exceptions
Applicant Disclosure and Authorization Form	19 of 72 or 26%
Background Check Report	12 of 72 or 17%
Local Criminal History Records Request	7 of 72 or 10%
Local Criminal History Background Check Report	8 of 72 or 11%

Table 2: Applicant Checks with Convictions-Hired and Not Hired	
Document	Sample Exceptions
Applicant Disclosure and Authorization Form	40 of 63 or 63%
Background Check Report	37 of 63 or 59%
Local Criminal History Records Request	37 of 63 or 59%
Criminal Individualized Assessment	34 of 63 or 54%
Pre-Adverse Letter	6 of 63 or 10%
Adverse Action Letter	10 of 43 ³ or 23%

Recommendation

5.1 Internal Audit recommends management re-emphasize to staff the importance of properly filing and securely maintaining all supporting documentation for its background check activities.

³ Of the 63 applicants sampled, 43 were not hired and required an Adverse Action Letter.

Management's Response

5.1 **Risk Mitigation Strategy:** Reduce

Implementation Date: May 2020

Action Plan: The Department is implementing an Applicant Tracking System (ATS) by the end of the calendar year 2019. The ATS will be the system of record for all documentation associated with the hiring process. The background check vendor will integrate with the ATS, and background check information will be in the system.

APPENDIX A—Risk Factor Definitions

Risk Factor	Definition
Compliance Risk	Failure to comply with established policies, procedures, and/or statutory requirements may result in unacceptable performance that impacts financial, operational, or customer objectives.
Documentation Risk	Failure to adequately collect, file, and retain key documentation may result in lack of accountability and/or evidence of inspection information and support.
Human Resource Risk	Failure to attract, train, develop, deploy, and/or empower competent personnel may inhibit the organization's ability to execute, manage, and monitor key business activities.
Integrity Risk	Failure of employees, vendors, or other parties to carry out their activities in compliance with the law and ethical standards of the organization may result in fraud.
Policies and Procedures Risk	Failure to have formal, documented, clearly stated, and updated policies and procedures may result in poorly executed processes and/or increased operating costs.
Segregation of Duties Risk	Failure to adequately segregate duties may allow an employee or group of employees to perpetrate and conceal errors or irregularities without timely detection.

APPENDIX B—Color Code Definitions

The criticality of a risk factor represents the level of potential exposure to the organization and/or to the achievement of process-level objectives before consideration of any controls in place (inherent risk).

Criticality	Significance and Priority of Action
	The inherent risk poses or could pose a significant level of exposure to the organization and/or to the achievement of process level objectives. Therefore, management should take immediate action to address risk observations related to this risk factor.
	The inherent risk poses or could pose a moderate level of exposure to the organization and/or to the achievement of process level objectives. Therefore, management should take prompt action to address risk observations related to this risk factor.
	The inherent risk poses or could pose a minimal level of exposure to the organization and/or to the achievement of process level objectives. Risk observations related to this risk factor, however, may provide opportunities to further reduce the risk to a more desirable level.

The assessment of the design and operation of key controls indicates Internal Audit’s judgment of the process and system design to mitigate risks to an acceptable level.

Assessment	Design of Key Controls	Operation of Key Controls
	The process and system designs do not appear to be adequate to manage the risk to an acceptable level.	The operation of the process’ risk management capabilities was not consistently effective to manage the risk to an acceptable level.
	The process and system designs appear to be adequate to manage the risk to an acceptable level. Failure to consistently perform key risk management activities may, however, result in some exposure even if other tasks are completed as designed.	The operation of the process’ risk management capabilities was only partially sufficient to manage the risk to an acceptable level.
	The process and system designs appear to be adequate to manage the risk to an acceptable level.	The operation of the process’ risk management capabilities appeared to be sufficient to manage the risk to an acceptable level.

APPENDIX C—Risk Mitigation Strategy Definitions

Risk Mitigation Strategy	Definition
Reduce	Risk response where actions are taken to reduce a risk or its consequences.
Accept	Risk response where no action is taken to affect the risk.
Transfer	Risk response where a portion of the risk is transferred to other parties.
Avoid	Risk response to eliminate the risk by avoiding or withdrawing from the activity giving rise to the risk.